

SPECIAL CIVIL APPLICATION NO. 6636 OF 1989

Date of decision: 1-5-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.K. KESHOTE, J  
(1-5-1996)

Mr. B.R. Parikh for the petitioner.  
Mr. D.A. Bambania for respondents No.1 and 3  
Mr. V. S. Patel for respondent No.4  
None present for respondent No.2.

ORAL JUDGMENT:

Heard the learned counsel for the parties. The petition on behalf of petitioner No.2 is not maintainable. Petitioner No.2 is not an applicant for the post of primary teacher. Even he has not applied for the post of primary teacher in response to the advertisement published by respondent No.1. In view of these facts none of the legal or fundamental right of petitioner No.2 is infringed. Petitioner No.2 has stated that he is father-in-law of petitioner No.1. Even if it is so, then how this petition is maintainable? Petitioner No.1 is the person who had applied in response to the advertisement for the post of primary teacher, and he may be an aggrieved person. This is yet another fact which goes against petitioner No.2. The petitioner No.2 has also not filed the petition in representative capacity. This court will not permit such a person to abuse the process of this court. The petition filed by respondent No.2 is dismissed with cost of Rs.2,000/- (Rupees two thousand). Out of the amount of cost petitioner No.2 shall pay Rs.1,000/- to respondents No.1 and 4, and Rs.1000/- to respondent No.3.

2. It is not in dispute that petitioner No.1 prayed for appointment as Craft Teacher in Tailoring. The counsel for the District Panchayat made statement before this Court that presently no post of primary teacher in craft and tailoring is vacant, and as and when the vacancy of primary teacher in craft and tailoring will be there petitioner No.1 will be called for interview and necessary orders will be passed. In view of the aforesaid statement of the counsel for the District Panchayat concerned, I do not find any justification in the grievance made by the petitioner. This undertaking was given by the counsel for the District Panchayat on 12th October, 1989. None of the parties is in a position to inform the Court what is the position today. Be that as it may. In view of the statement made by the learned counsel for the District Panchayat, the petitioner No.1's right for consideration for appointment as primary teacher in craft and tailoring is sufficiently protected. The petitioner has only right of consideration for appointment and no right of appointment. The question of right of consideration will arise only when there is a post and not otherwise.

3. In the result this writ petition fails and the same is dismissed. However, it is made clear that the District Panchayat shall stand by the statement made by its counsel in respect of appointment. Rule discharged. Ad-interim relief granted by this court on 12th October, 1989 stands vacated.

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